

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

DWAYNE FRANKLIN STINSON, §
#07023668, §
§
Plaintiff, §
v. § Civil Action No. **3:07-CV-1714-L**
§
OFFICER T. GREEN, OFFICER C. §
TAYLOR, OFFICER D. SEKORSKY, §
and OFFICER T. L. ROBINSON, §
§
Defendants. §

ORDER

Before the court is Defendants' Rule 12(b)(6) Motion to Dismiss, or in the Alternative, Rule 56 Motion for Summary Judgment, filed April 14, 2008. This case was filed on October 10, 2007, and it was referred to United States Magistrate Judge Wm. F. Sanderson, Jr. for screening pursuant to Special Order 3-25 the same day. On July 31, 2008, the magistrate judge entered Findings, Conclusions, and Recommendation of the United States Magistrate Judge ("Report") for Defendants' motion. No objections to the Report have been filed.

This is a civil rights action brought by a *pro se* inmate pursuant to 42 U.S.C. § 1983 against Defendants Farmers Branch Police Department,* Officer Jeremy Green ("Officer Green"), Officer Chad Taylor ("Officer Taylor"), Officer Dale Sekorsky ("Officer Sekorsky"), and Officer Terry Robinson ("Officer Robinson") (collectively, "Defendants"). Plaintiff alleges that while attempting to arrest him, Defendants attacked him with a police dog while he was lying face down, unarmed, and unconscious while. He also alleges that they sprayed him with pepper spray and used a Taser

*On January 29, 2008, the court dismissed with prejudice the claims against Defendant Farmers Branch Police Department.

device on him while he was handcuffed. The magistrate judge found that Officer Green, Officer Sekorsky, and Officer Robinson were not present at the time of Plaintiff's arrest and were, therefore, entitled to judgment as a matter of law. He also found that Officer Taylor was entitled to judgment as a matter of law because his use of force (grabbing Plaintiff and spraying him with pepper spray) was objectively reasonable.

Having reviewed the motion, summary judgment evidence, the Report, and the applicable law in this case, the court determines that the findings and conclusions are correct. The magistrate judge's findings and conclusions are therefore **accepted** as those of the court. Accordingly, the court **grants** Defendants' Rule 56 Motion for Summary Judgment and **denies as moot** Defendants' Rule 12(b)(6) Motion to Dismiss.

It is so ordered this 27th day of August, 2008.



Sam A. Lindsay
United States District Judge